

Charlottesville, VA  
Chapel Hill, NC  
Atlanta, GA  
Asheville, NC  
Charleston, SC  
Richmond, VA  
Washington, DC

September 18, 2009

VIA EMAIL AND US MAIL

U.S. Environmental Protection Agency  
Region 4 Freedom of Information  
SNAFC Bldg, 61 Forsyth Street., S.W., 9th Flr  
Atlanta, GA 30303-8960  
(404) 562-9891  
FAX (404) 562-8054  
Email: [r4foia@epa.gov](mailto:r4foia@epa.gov)

CNTRL NO. 00759-09  
 Response Due: 10/20/06  
 Category: Other  

APR 1961	SESD
COMM	CC EAD
LOAD	OTHER

 Special Instructions: 511

**Re: Records Request—SIP Withdrawal, Emissions Modeling, and Transportation Conformity Determination for Charlotte Nonattainment Area**

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. §552, as amended, the Southern Environmental Law Center ("SELC"), requests the opportunity to inspect, examine, and copy all public records in the possession or control of the Environmental Protection Agency ("EPA") related to:

1. The establishment of motor vehicle emissions budgets for the Charlotte 8-hour ozone nonattainment area under the 1997 standard, and whether short and long-term transportation programs and plans for the Charlotte area conform to those emissions limits, including but not limited to:
  - a. Travel demand modeling, motor vehicle emission projections, and vehicle miles traveled ("VMT") projections for the Charlotte area;
  - b. "VMT normalization";
  - c. Application of the "interim emissions" or "build/no-build" test for determining the conformity of some or all Charlotte area transportation plans;
  - d. Travel demand and emissions modeling to reflect transit improvements;
  - e. Transportation plans' effects on land use patterns in the area;

Communications between EPA and the North Carolina Department of Environment and Natural Resources Division of Air Quality (NCDAQ), the South Carolina Department of Health and Environmental Control (SCDHEC), the South Carolina Department of Transportation (SCDOT), the North Carolina Department of Transportation (NCDOT), the Charlotte Department of Transportation (CDOT), the Mecklenburg-Union Metropolitan Planning Organization (MPO), the Gaston Urban area MPO (GUAMPO), the Cabarrus Rowan area MPO (CRAMPO), the Rock Hill-Fort Mill Area Transportation

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Study (RFATS), or the United States Department of Transportation (USDOT), related to the above mentioned topics.

2. EPA's May 8, 2009 "Finding of Failure To Submit State Implementation Plans ["SIPs"] Required for the 1997 8-Hour Ozone National Ambient Air Quality Standard; North Carolina and South Carolina," including but not limited to:
  - a. The legal effect of that action and alternative actions that were considered;
  - b. The possible extension of the attainment deadline for the Charlotte ozone nonattainment area;
  - c. The finding's effects on transportation planning;
  - d. Records related to communications between EPA and NCDAQ, SCDHEC, SCDOT, NCDOT, CDOT, MUMPO, GUAMPO, CRAMPO, RFATS, or USDOT, related to the above mentioned topics.

For the purposes of this request, records "in the possession or control" of EPA is intended to include those records received or obtained by any EPA employee, and any contractor acting on behalf of EPA. Please consider the matters requested under this FOIA request to include reports, studies, correspondence, memoranda, licenses and permits, meeting notes and minutes, drafts and working papers, notes and summaries of conversations and interviews, and any other forms of written or recorded communication, including internal agency staff memoranda.

As you know, the Freedom of Information Act provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, we request that you send us all separable portions and justify deletions by reference to specific exemptions in the Freedom of Information Act. We reserve the right to appeal your decision to withhold any materials.

This request is made in the public interest to facilitate and ensure the implementation and enforcement of provisions of the Clean Air Act that require emissions reductions to protect public health. The Southern Environmental Law Center is a nonprofit organization under state and federal law and we request that any fees associated with this request be waived pursuant to 40 CFR Part 2. To provide for expeditious implementation of these requirements, we request that the information be provided within the time required by the Freedom of Information Act. To reduce the burden on your agency, a representative from SELC would be pleased to visit EPA's offices to review and copy the records.

Please contact me at your earliest convenience at (919)-967-1450 to arrange for inspection, copying and electronic transmission of these documents.

Sincerely,



Thomas Gremillion



Thomas Gremillion  
<tgremillion@selcnc.org>

09/18/2009 11:45 AM

To Group R4Foia@EPA

cc

bcc

Subject FOIA request for records related to Charlotte Ozone  
Nonattainment

To whom it may concern,

Attached please find the Southern Environmental Law Center's request for public records pursuant to the Freedom of Information Act, 5 U.S.C. § 552. You will also receive a hard copy of this letter via US mail. Please feel free to contact me to discuss the requests. I am happy to work with you to facilitate production of the records.

I look forward to hearing from you soon.

Sincerely,

Thomas Gremillion  
Southern Environmental Law Center  
NC/SC Office  
200 West Franklin Street, Suite 330  
Chapel Hill, North Carolina 27516-2559  
(919) 967-1450  
Fax (919) 929-9421  
[tgremillion@selcnc.org](mailto:tgremillion@selcnc.org)  
[SouthernEnvironment.org](http://SouthernEnvironment.org)

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**FOIA REQUEST BY: Charles O. Dankwah, 6420 General Green Way, Alexandria,  
VA 22150 (E-mail : dankwah@attglobal.net)**

**Site Name: Carolina Transformer Company**  
Cumberland County  
Fayetteville, NC

**EPA ID #: NCD003188844**

**Requested Documents**

<b>Document</b>	<b>Completion Date</b>
Combined Remedial Investigation / Feasibility Study	08/29/1991
Remedial Design	09/30/1996
Record of Decision Amendment	07/22/2005
Preliminary Close-out Report	08/10/2005



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
1200 Pennsylvania Avenue, NW (2822T)  
WASHINGTON, DC 20460

September 23, 2009

Mr. Thomas Gremillion  
Southern Environmental Law Center  
200 West Franklin Street, Suite 330  
Chapel Hill, NC 27516-2559  
United States

RE: Request No. 04-RIN-00759-09

Dear Mr. Gremillion:

This is in response to your Freedom of Information Act (FOIA) request, 5 U.S.C. 552 seeking records related to SIP withdrawal, emissions modeling and transportation conformity determination for Charlotte nonattainment area and for a waiver of fees in connection with that request.

The FOIA directs agencies to furnish records without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. 5 U.S.C. 552(a)(4)(A)(iii)(1994 & Supp. IV 1998).

Requests for fee waivers must be considered **on a case-by-case basis** and address the requirements for a fee waiver in sufficient detail for the agencies to make an informed decision. In determining whether the statutory requirements are met, agencies must consider six factors in sequence. These factors are summarized below.

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government. A request for access to records for their informational content alone does not satisfy this factor.
2. For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons. One's status as a representative of the news media alone is not enough.
4. The disclosure must contribute "significantly" to public understanding of government operations or activities.
5. The extent to which disclosure will serve the requester's commercial interest, if any.
6. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

Should you wish to receive a fee waiver, you must address, in sufficient detail, these six factors. You may send your response by email to [hq.foia@epa.gov](mailto:hq.foia@epa.gov), or by facsimile to this office (202) 566-2147. If we do not hear from you within 7 days from the date of this letter, we will deny your request for a waiver of fees based on insufficient justification. Records will be sent if you have provided assurance of payment should fees exceed \$25.00.

If you have any questions, please contact the Requester Service Center at [hq.foia@epa.gov](mailto:hq.foia@epa.gov), or call 202-566-1667.

Sincerely,

Larry F. Gottesman  
National FOIA Officer

RE: HQ Fee Waiver Justification (all fee categories)  
Thomas Gremillion

to:

Vivian Warden

09/23/2009 11:23 AM

Cc:

FOIA HQ

Show Details

*Fee waiver justification*

To whom it may concern,

Regarding the Southern Environmental Law Center's (SELC's) September 18 request for public records and a fee waiver from EPA, the following factors support SELC's request for a waiver.

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government. A request for access to records for their informational content alone does not satisfy this factor.

SELC's request specifically concerns identifiable EPA operations such as its May 8, 2009 finding of failure to submit state implementation plans for North and South Carolina, and its approval of various conformity determinations made by metropolitan planning organizations in the Charlotte area.

2. For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

SELC believes the released material will meaningfully inform the public as to how EPA's regulation of ozone in the Charlotte area has failed to bring air quality in that metropolitan area to national standards.

4. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons. One's status as a representative of the news media alone is not enough.

See above.

5. The disclosure must contribute "significantly" to public understanding of government operations or activities.

See above.

6. The extent to which disclosure will serve the requester's commercial interest, if any.

SELC is a non-profit organization. No commercial interests will be served by this disclosure.

7. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

See above.

**From:** Warden, Vivian [mailto:warden.vivian@epa.gov]  
**Sent:** Wednesday, September 23, 2009 10:54 AM  
**To:** Thomas Gremillion  
**Subject:** HQ Fee Waiver Justification (all fee categories)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

September 24, 2009

OFFICE OF  
ENVIRONMENTAL INFORMATION

Mr. Thomas Gremillion  
Southern Environmental Law Center  
200 West Franklin Street, Suite 330  
Chapel Hill, NC 27516-2559

RE: Request Number 04-RIN-00759-09

Dear Mr. Gremillion:

This is in response to your Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 request and your request for a waiver of fees. You are seeking a copy of records regarding the SIP withdrawal, emissions modeling and transportation conformity determination for Charlotte 8-hour ozone nonattainment area, etc.

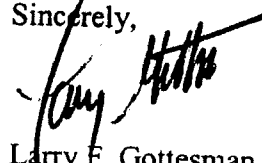
After reviewing the justification provided, your request for a waiver of fees is denied. You have not expressed a specific intent to disseminate the information to the general public. You have failed to demonstrate how the disclosure of the requested documents will contribute to "public understanding." The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. You have also failed to demonstrate how disclosure of the records is likely to contribute "significantly" to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced significantly by the disclosure. The US Environmental Protection Agency (EPA) Region 4 office in Atlanta, GA will be responding to your information request for the agency. However, prior to processing your request, Region 4 will provide you with an estimate if the cost exceeds \$14.00. After they receive your assurance of payment they will process your request.

Mr. Thomas Gremillion  
September 24, 2009  
Page 2

You may appeal this denial to the National Freedom of Information Office, US EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (US Postal Service only), fax: (202) 566-2147, e-mail: [hq.foia@epa.gov](mailto:hq.foia@epa.gov). Only items mailed through the US Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, NW, Room 6416J, Washington, DC 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the RIN listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

If you have any questions, please contact me directly at (202) 566-2162.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Gottesman", written over a horizontal line.

Larry F. Gottesman  
National FOIA Officer